



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0013; Notice 1]

Michelin North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Michelin North America, Inc. (MNA), has determined that certain BFGoodrich All-Terrain T/A KO2 replacement tires do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. MNA filed a noncompliance report dated November 13, 2018, and subsequently petitioned NHTSA on December 10, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MNA's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: MNA has determined that certain All-Terrain TA KO2 tires do not comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated November 13, 2018, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on December 10, 2018, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 40 U.S.C. 30118 and 49 U.S.C. 30120, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of MNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Equipment Involved: Approximately 415 BFGoodrich All-Terrain T/A KO2 replacement tires, size LT275/65R20, manufactured between September 2, 2018, and October 6, 2018, are potentially involved.

III. Noncompliance: MNA explains that the noncompliance is that the subject tires were marked with an incorrectly sequenced Tire Identification Number and therefore, do not meet the requirements of paragraph S5.5.1(b) of FMVSS No. 139. Specifically, the DOT symbol was

incorrectly placed between the first and second grouping of the TIN, when the symbol should be placed either in front of or below the TIN, thus, both the DOT symbol and the plant code were marked in the incorrect sequence.

IV. Rule Requirements: Paragraph S5.5.1 (b) of FMVSS No. 139 includes the requirements relevant to this petition. Each tire must be labeled with the TIN on the intended outboard sidewall of the tire, as required by 49 CFR part 574. Either the TIN or a partial TIN should contain all characters in the TIN, except for the date code and, at the discretion of the manufacturer, any optional code, and must be labeled on the other sidewall of the tire. If the tire does not have an intended outboard sidewall, the tire must be labeled with the TIN required by 49 CFR part 574 on one sidewall and with either the TIN, containing all characters in the TIN except for the date code and at the discretion of the manufacturer, any optional code, on the other sidewall.

V. Summary of Petition: MNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. Operational Safety:

- a. The TIN marking noncompliance does not create any operational safety risk for the vehicle. The tires comply with applicable FMVSSs and all other applicable regulations.
- b. The incorrect marking sequence of the DOT symbol and TIN plant code has no bearing on tire performance.
- c. The subject tires are properly marked with all other markings required under FMVSS No. 139 such as S5.5(c) maximum permissible inflation pressure and

S5.5(d) maximum load rating. The necessary information is available on the sidewall of the tire to ensure proper application and usage.

- d. The subject tires contain the DOT symbol on both sidewalls thus indicating conformance to applicable FMVSS.

2. Identification & Traceability:

- a. All information required by 49 CFR 574.5 for Tire Identification Number (plant code + size code + option code + date code) is present on the sidewall of the tire.
- b. The marking discrepancy only exists on one sidewall of the tire. The opposing sidewall has the correct sequence of DOT + plant code + size code + option code.
- c. For identification and traceability purposes the key information of plant code and manufacturing date is present on the tire.
- d. In the event that dealer/owner notifications are required either the intended marking (DOT BF) or the actual marking (BF DOT) would serve as an identifier of the tire.

3. Proactive Measures:

- a. The mismarking has been communicated to BFGoodrich Customer Care representatives in order to effectively handle any inquiries from dealers or owners regarding the subject tires.

MNA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted

from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

[FR Doc. 2019-14139 Filed: 7/2/2019 8:45 am; Publication Date: 7/3/2019]